

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

) Magistrate Docket No.

Plaintiff,

'08 MJ 1875

V.

COMPLAINT FOR VIOLATION OF:

Jose MONTALVO-Alvarez,

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

Defendant

The undersigned complainant, being duly sworn, states:

On or about **June 17, 2008** within the Southern District of California, defendant, **Jose MONTALVO-Alvarez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 18th DAY OF JUNE, 2008.


Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

On June 17, 2008, Border Patrol Agent B. Valada was performing his assigned duties in the Campo, California area of responsibility. At approximately 10:45 a.m., Border Patrol Dispatch advised via service radio, of a suspected undocumented alien just east of Tierra Del Sol and Denny's Way. This area is approximately 20 miles east of the Tecate, California port of entry, and less than 2 miles north of the United States/Mexico international border.

Upon arriving in the area, Agent Valada found one individual attempting to hide in some brush. Agent Valada immediately identified himself as a United States Border Patrol Agent and questioned the subject as to his citizenship and immigration status. This individual was later identified as the defendant **Jose MONTALVO-Alvarez**. The defendant admitted to being a citizen and national of Mexico without the proper immigration documents to enter or remain in the United States legally. The defendant was arrested and transported to the Border Patrol Station in Campo, California for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on July 16, 2005** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights. The defendant stated that he understood his rights and agreed to speak without the presence of an attorney. The defendant stated that he is a citizen and national of Mexico, He admitted that he does not have, and has never had any immigration documents entitling him to enter or remain in the United States legally. The defendant stated that he knew he was making an illegal entry on June 17, 2008.